

OPINION
56-81

August 2, 1956 (OPINION)

COURTS

RE: County - Appointment of Clerk

I have read with great interest your letter of July seventeenth with reference to the above captioned matter and have been giving it considerable thought since receiving it.

You state that as a judge of the county court of increased jurisdiction in Ransom County you are also clerk of the district court of said county, and by virtue of being clerk of the district court you are also ex-officio clerk of the county court of increased jurisdiction.

You state that section 27-0724 of the N.D.R.C. of 1943 authorizes the judge of the county court to appoint a clerk of the county court so far as its probate jurisdiction goes, and you raise the question whether such clerk can act as clerk of the county court having increased jurisdiction.

It is our opinion that section 27-0813 of the N.D.R.C. of 1943 contains the answer to your problem. It reads as follows:

"DUTIES OF CLERK OF COUNTY COURT WITH INCREASED JURISDICTION. The clerk of a county court having increased jurisdiction, or the clerk of the district court, or his deputy, in a county in which the clerk of the district court is ex-officio clerk of the county court having increased jurisdiction, shall perform all the duties devolved upon him as such clerk in all actions and proceedings commenced in the county court by virtue of its increased jurisdiction in the same manner as the clerk of the district court is required to perform his duties, so far as the provisions of this code relating to the clerk of the district court are applicable."

Therefore, it would seem to me that your deputy clerk of the district court would perform all the duties that would ordinarily fall upon you as clerk of the district court and ex officio clerk of the county court having increased jurisdiction, and the said deputy clerk would be qualified to perform all the acts that it would be your duty to perform as ex officio clerk of the county court having increased jurisdiction. In my opinion, he should sign as ex officio deputy clerk of the county court.

We concur quite thoroughly with your views in this matter, and it is entirely possible that there should be some legislation enacted to clarify the situation.

LESLIE R. BURGUM

Attorney General